

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Dino Antolini,

Plaintiff,

-against-

Amy McCloskey, et al.,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 2/17/2021

1:19-cv-09038 (GBD) (SDA)

ORDER

STEWART D. AARON, UNITED STATES MAGISTRATE JUDGE:

WHEREAS, on February 10, 2021, Defendants filed a Letter Motion to compel the deposition of Plaintiff Dino Antolini, which previously had been noticed by Defendants to occur on October 21, 2020 and February 11, 2021 (*see* Defs.' 2/10/21 Ltr. Mot., ECF No. 140); and

WHEREAS, in his response filed yesterday evening, Plaintiff's counsel states that Plaintiff is "unable to verbally participate in his deposition," that Plaintiff's speech "is almost unintelligible," that Plaintiff "suffers from Bell's Palsy on one side of his mouth" and that Plaintiff "has now been afflicted on the other side of his mouth" (Pl.'s Resp., ECF No. 141); and

WHEREAS, under all the facts and circumstances leading up to the present, the Court finds that Plaintiff's response to the pending Letter Motion is deficient and does not provide an adequate basis for the Court to decide the issues before it.

NOW, THEREFORE, it is hereby ORDERED, as follows:

1. No later than Monday, February 22, 2021, Plaintiff's counsel shall file two sworn affidavits or declarations — one from the Plaintiff himself and one from Plaintiff's counsel — that set forth (a) the precise nature of the affliction(s) to Plaintiff's mouth; (b) the onset date(s) of Plaintiff's mouth-related affliction(s); (c) the name, address

and telephone number for Plaintiff's treating physician so that testimony may be obtained from such physician, as needed; and (d) the names and case numbers for any litigation where Plaintiff gave deposition testimony, or testified under oath in a court proceeding, and the date(s) of such testimony.

2. Plaintiff hereby is given leave to redact from the documents required to be filed by paragraph 1 of this Order information regarding Plaintiff's medical condition that has not already been filed by Plaintiff on the public docket. If any redactions are made, unredacted versions of the documents concurrently shall be filed under seal on the ECF docket.
3. No later than Thursday, February 25, 2021, Defendants shall file their reply papers in respect of their Letter Motion.
4. A remote hearing shall be held at 11 a.m. on Tuesday, March 2, 2021 to address the pending Letter Motion. **Plaintiff himself shall participate in the hearing.** For the audio portion of the hearing, at the scheduled time, Plaintiff, Plaintiff's counsel and Defendants' counsel separately shall call the Court's conference line at 888-278-0296 and enter access code 6489745. The Court also requires attendance by video of all participants in this hearing. A link for the video portion of the hearing shall be emailed to counsel in advance of March 2, 2021.

SO ORDERED.

Dated: New York, New York
February 17, 2021



STEWART D. AARON
United States Magistrate Judge